

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DAVID P. MOORE, SR.
ADC # 112305

PLAINTIFF

v. No. 4:13CV00594 JLH-JJV

ANDY SHOCK, Sheriff,
Faulkner County; *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge Joe J. Volpe and David P. Moore, Sr.'s objections. After carefully considering the objections and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommended Partial Disposition should be approved and adopted as this Court's findings, except with respect to the allegations that Michael Rainwater and the law firm of Rainwater, Holt & Sexton entered into a conspiracy with the Faulkner County defendants to curb inmate lawsuits. Moore alleges that the Faulkner County Detention Center had posted in various places a document entitled "Inmate Rights and Rules of Conduct" that read:

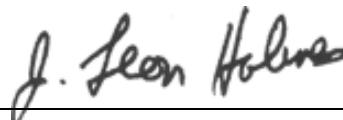
Due to the increase of frivolous lawsuits filed by inmates the Arkansas Legislature has recently passed new laws allowing for the increased punishment of inmates filing frivolous lawsuits. FCDC will punish inmates filing frivolous lawsuits to the fullest extent of the law.

Moore alleges that this document posted at the Faulkner County Detention Center was fraudulent and created for the purpose of discouraging him and frightening him from defending his constitutional rights. He alleges that Michael Rainwater and the law firm of Rainwater, Holt & Sexton conspired with the Faulkner County defendants to create this document so as to interfere with his rights of access to the court.

Contrary to Moore's argument, this document is not fraudulent. Ark. Code Ann. §§ 16-106-201 through 204 provides for sanctions to inmates who file frivolous lawsuits. "Frivolous" is defined as "having no reasonable basis in law or fact, or lacking in a good faith legal argument for the extension, modification, or reversal of existing law." Ark. Code Ann. § 16-106-201(1). Sanctions that can be imposed include an award of attorneys' fees and actual costs not to exceed \$2,500 per frivolous cause of action, court costs not to exceed \$500, and a civil sanction not to exceed \$1,000. Ark. Code Ann. § 16-106-203. Thus, the notice posted by the Faulkner County Detention Center warning inmates against filing frivolous lawsuits was not fraudulent, nor did it violate the United States Constitution for the Faulkner County Detention Center to warn inmates that if they were to file frivolous lawsuits the Faulkner County Detention Center would seek sanctions. Nothing about the notice threatened punishment for filing a lawsuit that was not frivolous.

IT IS, THEREFORE, ORDERED that David P. Moore, Sr.'s claims against L. Douglas, Michael Rainwater, and the law firm of Rainwater, Holt & and Sexton are dismissed without prejudice.

DATED this 7th day of February, 2014.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE